

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSE MAURAD,

Petitioner,

-v-

BRIAN FISCHER, Superintendent of Sing  
Sing Correctional Facility,

Respondent.  
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USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 1-16-07

05 Civ. 0445 (JSR)

ORDER

JED S. RAKOFF, U.S.D.J.

On July 31, 2006, the Honorable Douglas F. Eaton, United States Magistrate Judge, issued a Report and Recommendation in the above-captioned matter recommending that this petition for habeas corpus be denied.

Petitioner has failed to file any objection to the Report and Recommendation, and, for that reason alone, has waived any right to further appellate review. See Thomas v. Arn, 474 U.S. 140, 147-48 (1985); Mario v. P & C Food Markets, Inc., 313 F.3d 758, 766 (2d Cir. 2002); Spence v. Superintendent, Great Meadow Corr. Facility, 219 F.3d 162, 174 (2d Cir. 2000). Accordingly, the Court hereby adopts the Report and Recommendation (with the exception of one typographical error in the Report, which is hereby corrected<sup>1</sup>), and, for the reasons therein, dismisses Maurad's habeas petition with prejudice. In addition, because

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<sup>1</sup> On page 3, the Report states "Maurad's jury hear E.Q. testify . . . ." That line is hereby amended to say "Maurad's jury heard E.Q. testify . . . ." (emphasis added).

petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue, see 28 U.S.C. § 2253, and the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith. Moreover, as petitioner's claim lacks any arguable basis in law or fact, permission to proceed in forma pauperis is also denied. 28 U.S.C. § 1915(g); see also Seimon v. Emigrant Savs. Bank (In re Seimon), 421 F.3d 167, 169 (2d Cir. 2005). Clerk to enter judgment.

SO ORDERED.

  
JED S. RAKOFF, U.S.D.J.

Dated: New York, New York  
January 13, 2007